This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0180

In re the Matter of:

Rodney Tristan Miller (Deceased),
Petitioner,

vs.

Pamela Marie Spera FKA Pamela Marie Miller,
Appellant,

Maria Malloy OBO Minor,
Respondent.

Filed January 27, 2025
Reversed and remanded
Frisch, Chief Judge

Hennepin County District Court
File No. 27-FA-000264110

Pamela M. Spera, Eden Prairie, Minnesota (attorney pro se)

Maria Molloy, San Francisco, California (pro se respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Chief Judge; and Kirk, Judge.*

---

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

In this second appeal related to the valuation of retirement assets subject to division, appellant argues that the district court erred by improperly valuing her interest in her former husband's retirement accounts, thereby impermissibly modifying the existing judgment and decree. Appellant also argues that the district court abused its discretion in denying her motion for a new trial based on newly discovered evidence. We conclude that the district court erred by assigning a value to appellant's share of the retirement accounts that resulted in the impermissible modification of the original property distribution. We therefore reverse the valuation determination by the district court and remand to impose the proper valuation and reconsider appellant's request for a new trial in light of the proper valuation determination.

FACTS

On May 17, 2004, the district court dissolved Rodney Miller and appellant Pamela Marie Spera's marriage by stipulated judgment and decree (the J&D). *Miller v. Miller*, 953 N.W.2d 489, 491 (Minn. 2021). Spera and Miller had three joint children. *Id.* At the time of the dissolution, Miller and Spera each had several retirement accounts in their own names, which are set forth in the J&D with account numbers. The J&D directs Miller and Spera to divide these individual accounts equally by transferring half of the interest in each account to the other party and provides that "[t]he value of the accounts is to be determined at the time of the division of the accounts, which shall be done within 30 days" of the entry of the J&D. The J&D also provides that Miller and Spera must cooperate in facilitating the conveyances set forth in the J&D and that if either party failed to do so, the J&D "shall operate as said conveyance." Finally, the J&D provides that the district court shall "retain jurisdiction" over "assets or income which have not been disclosed and/or divided herein" for purposes of making an equitable division. Spera and Miller did not divide their respective retirement accounts before the commencement of this action.

After Miller and Spera divorced, Miller had a child with respondent Maria Molloy.[1] *Miller*, 953 N.W.2d at 491. In 2015, Miller changed the beneficiary designations of his retirement accounts and listed each of his four children, including his child with Molloy, as co-beneficiaries. *Id.*

In 2018, Miller died intestate. *Id.* Shortly thereafter, Spera moved the district court to enforce the J&D "to implement the division of the parties' interests in the retirement accounts." Spera asked that the district court value the retirement accounts as of the date of the order compelling division of the accounts, less any contributions after the date of the original J&D. Molloy moved to intervene on behalf of her child's interest in Miller's retirement accounts. The district court denied Molloy's motion and she appealed to this court. *Miller v. Miller*, No. A19-0372, 2020 WL 1676639, at *1 (Minn. App. Apr. 6, 2020), *aff'd*, 953 N.W.2d 489 (Minn. 2021).

We reversed and remanded, concluding that the district court erred in denying Molloy's motion to intervene. *Id.* at *1-3. The supreme court affirmed, concluding in relevant part that Molloy's child had "some interest in property awarded in the [J&D] and

---

[1] We note that the caption in this case denotes respondent's last name as "Malloy," but we apply the spelling used in respondent's brief throughout this opinion.

that interest [was] sufficient for Molloy to intervene as a matter of right." *Miller*, 953 N.W.2d at 495-96. But the supreme court limited Molloy's intervention right "to the valuation of Miller's retirement accounts" and specified that she did not have the "right to intervene as to the division of the retirement accounts, which is a matter governed by [the J&D]" and could not make arguments about the timeliness of Spera's enforcement action. *Id.* at 496.

On remand, the district court held a trial regarding Spera's enforcement action. At trial, Spera asked the district court to divide the retirement accounts using the value of the accounts at the time of J&D, less any contributions to those accounts after 2004. She also requested that she be awarded earnings on the valuation of her share of the accounts since the entry of the J&D. Spera introduced expert testimony and an expert report regarding valuation of some of the accounts. Molloy asserted that the accounts should be divided based on a valuation in June 2018. In a January 2023 order, the district court concluded that neither valuation was appropriate for "effectuating an equitable division" of the retirement accounts "as contemplated in the J&D" and instead ordered the accounts be divided using the 2004 valuation. The result of the division was to award Spera a $130,028.68 equalizer payment. The district court did not award Spera any earnings on her share of the accounts.

Spera moved for a new trial or amended findings, arguing that the district court's order was not justified by the evidence and contrary to law. She also argued that a new trial was warranted based on newly discovered evidence that Miller transferred funds from an account subject to the J&D to another account. Following a hearing, the district court denied Spera's motions, concluding that she had failed to show that the district court's valuation order was not justified by evidence or contrary to law, and that the evidence Spera argued was newly discovered was considered by the district court in its initial order.

Spera appeals.

DECISION

Spera argues that the district court clearly erred in valuing the retirement accounts and abused its discretion in denying her request for a new trial. She claims that, in interpreting and implementing the J&D, the district court altered her substantive rights by making an inequitable division of the retirement accounts, and that in so doing, the district court failed to follow the remand instructions from the supreme court. She also asserts that the district court abused its discretion in denying her motion for amended findings or a new trial based on newly discovered evidence. We address each issue in turn.

I. The district court made an error of law and impermissibly modified Spera's substantive rights.

Spera argues that the district court impermissibly modified the J&D because its order on remand granted Spera less property than she was entitled to receive pursuant to its original terms. We agree.

With few exceptions not applicable here, a district court may not modify a final property division. *Redmond v. Redmond*, 594 N.W.2d 272, 275 (Minn. App. 1999); *see also* Minn. Stat. § 518.145 (2022) (providing for reopening of a dissolution decree for specified reasons within a year of entry of the judgment and decree). But if the terms of a judgment are ambiguous, a district court "may issue orders to implement, enforce, or clarify the provisions of a decree, so long as it does not change the parties' substantive rights." *Redmond,* 594 N.W.2d at 275.

We first address whether the J&D was ambiguous and therefore subject to implementation, enforcement, and clarification. A "document is ambiguous if it is reasonably susceptible to more than one meaning." *Suleski v. Rupe*, 855 N.W.2d 330, 339 (Minn. App. 2014) (quotation omitted). We review de novo whether a J&D is "clear or ambiguous." *Id.*

We discern no ambiguity in the J&D, which provides that the retirement accounts were to be valued at the time of the anticipated division in 2004. Paragraph 28 of the J&D provides:

> By virtue of the divorce decree and judgment entered on this day dissolving the bonds of marriage existing between the Petitioner and Respondent, along with this Order, the parties are ordered by the court to divide equally between themselves their interests in all of the above retirement accounts, by transferring one-half of the interest in each of the parties' individual accounts to the other party, pursuant to the divorce decree and judgment. The value of the accounts is to be determined at the time of the division of the accounts, which shall be done within 30 days of the date of this Order.

This language unambiguously reflects: (1) that Miller and Spera were to divide the specified retirement accounts equally between them; (2) that the division was contemplated to occur within 30 days of entry of the J&D, and (3) that the value of the accounts to be divided would be determined "at the time of the division of the accounts." The only reasonable interpretation of this language is that the accounts were to be divided in 2004 and that the account values were to be determined at that time. *See Staffing Specifix, Inc.*

v. TempWorks Mgmt. Serv., Inc., 913 N.W.2d 687, 692 (Minn. 2018) ("The primary goal of contract interpretation is to determine and enforce the intent of the parties." (quotation omitted)).

Instead of applying this clear and unambiguous language to the valuation of the identified retirement accounts, the district court concluded that the retirement accounts should be divided in accordance with a different provision of the J&D that contemplated "assets or income which have not been disclosed and/or divided herein." That provision afforded the district court continued jurisdiction over such assets "for the purpose of making an equitable division thereof." But the provision invoked by the district court does not speak to the valuation of any such assets and is otherwise inapplicable because the J&D expressly sets forth the accounts to be valued and divided and the manner of valuation and division of those assets. The district court's order on remand departed from the unambiguous directive set forth in the J&D regarding the division of the retirement accounts. The district court therefore erred as a matter of law in relying on this provision of the J&D to value and divide the retirement accounts.

And we are not persuaded by Spera's asserted alternative interpretation that the J&D unambiguously provides that the division of the retirement accounts be solely based on the valuation of those accounts at the time of the actual division of the accounts—here, 20 years after the entry of the J&D. This approach is inconsistent with the plain language of the J&D, which expressly directs that the accounts "shall" be divided within 30 days of the entry of the J&D and that the accounts are to be valued at the time of division. We therefore conclude that Spera's interpretation is unreasonable because it departs from established principles of contract construction that require provisions to be harmonized and interpreted "in such a way as to give meaning to all of its provisions." *Brookfield Trade Ctr., Inc. v. County of Ramsey*, 584 N.W.2d 390, 394 (Minn. 1998); *see also Palmi v. Palmi*, 140 N.W.2d 77, 81 (Minn. 1966) ("[I]n arriving at the meaning of a judgment or decree, the judgment as a whole should be considered in interpreting any particular clause or sentence therein[.]"); *Blonigen v. Blonigen*, 621 N.W.2d 276, 281 (Minn. App. 2001) (applying the rules of contract construction to a stipulated dissolution judgment), *rev. denied* (Minn. Mar. 13, 2001).[2]

We next consider whether the district court's erroneous interpretation of the J&D was harmless. *See Goldman v. Greenwood*, 748 N.W.2d 279, 285 (Minn. 2008) (concluding that the district court's error did not require reversal where the district court reached the "correct" result) (citing Minn. R. Civ. P. 61 (requiring courts to disregard harmless error)). We recognize that the implementation and enforcement of the J&D is complicated by the amount of time that elapsed between the entry of the J&D and Spera's present enforcement action, along with Miller's unilateral movement of funds from the accounts subject to division to different accounts. But our caselaw is clear that an order implementing, enforcing, or clarifying provisions of a J&D may not give one party "more or less" than they received under the original property division. *Hanson v. Hanson*, 379

[2] We decline to consider Molloy's substantive arguments that the valuation method adopted by the district court was appropriate because these arguments rely on Molloy's interpretation of the J&D. Molloy's right of intervention was narrowly prescribed by the supreme court and limited "to the valuation of Miller's retirement accounts." *See Miller*, 953 N.W.2d at 495-96 (concluding that Molloy lacked the "right to intervene as to the division of the retirement accounts," which is governed by the J&D)).

N.W.2d 230, 233 (Minn. App. 1985). We conclude that the district court's error in its valuation of the accounts, and the resulting error in the division of the accounts, was not a harmless legal error because it modified the J&D by giving Spera less than she received under the original property division.

The district court ordered that Spera receive half of the retirement accounts as valued in 2004, producing in 2024 an equalizer payment in an amount that would have been appropriate if the equalizer payment were ordered in 2004. But in so doing, the district court did not consider that the accounts were not actually divided in 2004 or that the value of the accounts had changed in the 20 years that had elapsed since the entry of the J&D. The district court's failure to consider the changes to the value of the assets in the 20 years since the entry of the J&D adversely affected Spera's substantive rights because it ignored the appreciation in value of those accounts to Spera's disadvantage.

The effect of the district court's order on remand was to award all of the gains on Spera's portion of Miller's retirement accounts to Miller, and all the gains on Miller's portion of Spera's retirement accounts to her. The district court ignored the gains since 2004 to which either Miller was entitled on Spera's accounts or Spera was entitled on Miller's accounts. A division of the accounts based on their 2004 valuation disadvantaged Spera because Miller kept all of the gains on the larger share of retirement funds that he held when the J&D was entered. The district court's method of dividing the retirement accounts afforded Miller 20 years of investment gains on an equalizer payment he should have paid Spera on the portion of the accounts that she would have been free to invest of her own accord if the division of those accounts had occurred in 2004 as directed by the J&D.

We have recognized that a party's substantive rights identified in a dissolution judgment can be impermissibly altered if there is a change in an asset's value between the entry of a dissolution judgment and the effectuation of that judgment's property division, or if there is a long-term delay in the division or distribution of assets required by a dissolution judgment. In *Sirek v. Sirek*, we contemplated the effect of changes to the value of assets occurring between a dissolution decree and division of marital property reversing and remanding with specific instructions for the district court to adjust the marital-property division to account for a substantial change in value of the property. 693 N.W.2d 896, 900 (Minn. App. 2005); *see also Bender v. Bender*, 671 N.W.2d 602, 606 (Minn. App. 2003) (affirming district court's adjustment to parties' stipulated division of property to account for a decrease in value of an account); *Wood v. Wood*, No. A19-0554, 2019 WL 6836788, at *3-5 (Minn. App. Dec. 16, 2019) (affirming clarification of a dissolution decree when a district court awarded a party appreciation on a former spouse's retirement accounts where there had been a significant change in value from the valuation date to the eventual division date); *Charlson v. Charlson*, No. A18-1058, 2019 WL 1923469, at *7 (Minn. App. Apr. 29, 2019) (affirming a district court's property distribution that divided a party's 401(k) after adjusting for gains and losses between the valuation date and the distribution date), *rev. denied* (Minn. July 16, 2019); Minn. R. Civ. App. P. 136.01, subd. 1(c) (providing that nonprecedential opinions are "not binding authority" but "may be cited as persuasive authority"). And we have also considered the effects of a long-term delay in implementing a dissolution judgment and concluded that the district court abused its discretion by dividing marital assets over four years without any interest without justifying its decision. *Thomas v. Thomas*, 407 N.W.2d 124, 124, 127 (Minn. App. 1987) (citing Minn. R. Civ. P. 52.01 (generally requiring a district court to make particular and specific findings of facts when acting as fact-finder)).

In sum, we conclude that the district court both made an error of law in interpreting the J&D and in otherwise altering Spera's substantive rights in its order on remand by not considering the appreciation of Spera and Miller's retirement accounts when dividing those assets. We therefore reverse and remand for the district court to divide the retirement accounts according to their value at the time of the J&D and to determine and divide any gains on those accounts consistent with this opinion.[3]

II. We remand Spera's request for a new trial to the district court to consider her motion for amended findings or a new trial.

Spera also asserts that the district court abused its discretion in denying her motion for a new trial or amended findings based on newly discovered evidence. The evidence that Spera appears to allege is newly discovered is information that a transfer of funds from a Vanguard account not set forth in the J&D was actually from the Vanguard account listed in the J&D.

In a dissolution proceeding, a district court "may order a new trial or grant other relief" based on newly discovered evidence. Minn. Stat. § 518.145, subd. 2(2). To warrant

[3] With this conclusion in mind, we decline to reach Spera's argument that the district court abused its discretion by flouting the supreme court's instructions on remand.

relief, the asserted newly discovered evidence (1) must not, with the exercise of due diligence, have been discoverable before the relevant proceeding; (2) must be relevant and admissible; and (3) must not be cumulative, contradictory, or impeaching, and would likely affect the outcome of the case. *Bender v. Bernhard*, 971 N.W.2d 257, 263 (Minn. 2022). We review a district court's decision whether to reopen an existing ruling for newly discovered evidence for an abuse of discretion. *Id*.

In denying Spera's motion for a new trial based on newly discovered evidence, the district court noted that it was "aware based on the record evidence that Mr. Miller had closed the Vanguard account included in the J&D and transferred the funds to other accounts and took this into account when issuing the [order on remand.]" The district court then determined that the evidence that Spera alleged was newly discovered was "produced at trial" and represented in Spera's trial exhibits, and that the evidence was not otherwise relevant to its disposition.

It appears the district court misunderstood which evidence Spera asserted was newly discovered. Spera acknowledged that the identified transfer into the nonmarital account was reflected in the record, but the *origin* of that transfer was not. Spera asserted that evidence she newly discovered establishes that origin. We agree with Spera that the identified evidence was not included in the record. And the district court's determination that the newly discovered evidence was not relevant was based on its improper valuation of the retirement accounts. We therefore remand Spera's request for a new trial to the district court to reconsider Spera's motion, taking into account this new evidence and its relevance to the valuation. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that we generally address only those questions previously presented to and considered by the district court).

Reversed and remanded.